

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Trustee-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

BANCO BILBAO VIZCAYA
ARGENTARIA, S.A.,

Defendant.

Adv. Pro. No. 10-05351 (SMB)

**STIPULATION EXTENDING TIME TO RESPOND
AND ADJOURNING THE PRE-TRIAL CONFERENCE**

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.*, and the estate of Bernard L. Madoff, individually, by and through his counsel, Baker & Hostetler LLP, and Banco Bilbao Vizcaya Argentaria, S.A. (“BBVA”), by and through its counsel, Shearman & Sterling LLP, hereby stipulate and agree as follows:

Whereas, on August 29, 2011, BBVA filed and served a motion to dismiss the Trustee's complaint (the "Complaint") in the Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court");

Whereas the Trustee and BBVA previously entered into stipulations whereby the Trustee and BBVA agreed to extend the dates by which the Trustee shall file and serve a response to BBVA's motion to dismiss the Complaint and by which BBVA shall file and serve a reply to the response by the Trustee;

Whereas on October 7, 2011, BBVA made a motion with the District Court for the Southern District of New York (the "District Court") to withdraw the reference of this adversary proceeding to the District Court and indicated its intention to supplement the pending motion to dismiss the Complaint before the Bankruptcy Court;

Whereas the District Court withdrew the reference to the Bankruptcy Court for the limited purposes of deciding, *inter alia*, issues related to "good faith" under 11 U.S.C. § 548(c) and 550(b), the "safe harbor" provision under 11 U.S.C. § 546(e), satisfaction of antecedent debt, *Stern v. Marshall*, 131 S. Ct. 2594 (2011), and extraterritorially under *Morrison v. National Australia Bank Ltd.*, 130 S. Ct. 2869 (2010) (collectively, the "Common Issues"); and

Whereas the parties are still waiting on an opinion from the District Court regarding one of the Common Issues;

IT IS HEREBY STIPULATED AND AGREED, by and between the Trustee and BBVA by the endorsement of their counsel below, that:

1. BBVA shall either supplement its pending motion to dismiss the Complaint or alternatively withdraw its pending motion to dismiss the Complaint and file a renewed motion to dismiss the Complaint no later than June 30, 2014;

2. The Trustee's response to BBVA's supplemented motion to dismiss the Complaint or alternatively BBVA's renewed motion to dismiss the Complaint shall be filed and served no later than August 29, 2014;

3. BBVA's reply in support of its motion to dismiss shall be filed and served no later than September 30, 2014;

4. The Pre-Trial Conference with the Court is hereby adjourned from October 29, 2014, at 10:00 a.m., to November 19, 2014, at 10:00 a.m.;

5. The hearing on BBVA's motion to dismiss is also hereby adjourned from October 29, 2014, at 10:00 a.m., to November 19, 2014, at 10:00 a.m.;

6. BBVA's signing of this agreement shall not constitute a waiver of any rights, objections or defenses that BBVA may have to this action, including, without limitation, any objections to the jurisdiction of this Court or to venue, except that BBVA waives any and all objections and defenses that it may have to this action relating to insufficient process or insufficient service of process under Federal Rule of Bankruptcy Procedure 7012, Federal Rule of Civil Procedure 12(b)(4) and (5) and any other applicable rules or provisions; and

7. This stipulation may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photocopy, or electronic copy of this stipulation shall be deemed an original. This stipulation is entered into pursuant to the Order Granting Supplemental Authority to Stipulate to Extensions of Time to Respond and Adjourn Pre-Trial Conferences (Adv. Pro. No. 08-01789 (SMB), Dkt. No. 5600).

Dated: May 19, 2014
New York, New York

/s/ Thomas L. Long
BAKER & HOSTETLER LLP
45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
Thomas L. Long
Email: tlong@bakerlaw.com
Regina L. Griffin
Email: rgriffin@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of Bernard
L. Madoff Investment Securities LLC and the Estate of
Bernard L. Madoff*

/s/ Joanna Shally
SHEARMAN & STERLING LLP
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: (202) 508-8000
Facsimile: (202) 508-8100
Heather L. Kafele
Email: hkafele@shearman.com

SHEARMAN & STERLING LLP
599 Lexington Avenue
New York, New York 10022
Telephone: (212) 848-4700
Facsimile: (646) 848-4700
Joanna Shally
Email: jshally@shearman.com

Attorneys for Banco Bilbao Vizcaya Argentaria, S.A.